

# Washington state Supreme Court denies Seattle's bid for income tax on wealthy households

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The state Supreme Court denied Seattle's quest to overturn rulings against the income tax by a King County Superior Court judge and the state Court of Appeals. Above, the state Supreme Court building in Olympia. (Rachel La Corte / The Associated Press)



By [Daniel Beekman](#)

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Washington's Supreme Court has denied Seattle's bid to reinstate an income tax on wealthy households, declining to hear the city's case and dealing a major blow to advocates for tax system reform in the state.

[In a majority decision](#), the Supreme Court on Thursday declined to review the city's request to overturn rulings against the tax by a King County Superior Court judge and the state Court of Appeals.

Without issuing an opinion, Supreme Court dismissed Seattle's petition for review and a petition written by the Economic Opportunity Institute (EOI), a Seattle-based progressive think tank.

"The petitions for review are both denied," Chief Justice Debra Stephens wrote, without elaboration.

A Supreme Court spokeswoman declined to report the tally and how each justice voted. A person with knowledge of the details who spoke on condition of anonymity said the vote was 5-3; Justice Charles Wiggins recently retired.

The ruling means Washington and its cities will remain blocked from enacting graduated income taxes, with different rates based on wealth. But some advocates may still see a path forward, because the Supreme Court let stand a decision by the Court of Appeals last year to void a state law that banned taxes on net income.

A city like Seattle could respond to the coronavirus health and economic crisis by trying to implement a single-rate income tax with exemptions meant to help poorer people, said John Burbank, EOI's executive director.

"I'm disappointed in the denial for review," Burbank said Friday. "Having said that," letting the Court of Appeals decision on the 1984 law stand, "does clear the way" for new proposals.

"Seattle has the authority to adopt an income tax, and I believe we can craft a proposal that can help make our tax system less regressive," Mayor Jenny Durkan said in a statement Friday.

"We are once again confronted with the reality that in times of crisis, those same residents that earn or have the least are the first to feel economic stings of job loss and instability," Durkan added.

"We must work today to avoid this in the next crisis. As we emerge from this emergency all of us need to rebuild a city that is more just and equitable."

Washington is one of the few states without an income tax, and its system has been labeled by tax reformers as the most regressive, meaning poor residents pay a much higher percentage of their earnings than do rich residents.

When Seattle adopted a 2.25% tax on high-earning households in 2017, supporters said the tax would raise about \$140 million a year to pay for housing, education and transit and could reduce the city's dependence on property and sales taxes.

At the same time, advocates for reform assumed the measure would be challenged and hoped the case would lead the Supreme Court to overturn previous rulings on the issue and pave the way for a statewide progressive income tax.

Seattle's tax did immediately draw lawsuits, with opponents arguing the measure violated the 1984 law that banned Washington cities from taxing net income. King County Superior Court Judge John Ruhl [agreed on that point](#) and killed the tax before the city began collecting the money.

The opponents also argued the tax violated a provision of the state constitution that says property must be taxed uniformly — at the same rate for everyone. Ruhl didn't address that question.

Seattle sought direct review from the state Supreme Court, which declined to hear the case right away. The state Court of Appeals weighed in [last year](#) with a mixed decision.

It declared the state's ban on cities taxing net income unconstitutional, citing a technical rule broken by the Legislature back in 1984. But with respect to the constitutionality of the city's tax, the Court of Appeals ruled against Seattle, deferring to the Supreme Court, which has several times in the past ruled that income is property and that property must be taxed uniformly.

Seattle's tax would have applied a 2.25% rate on total income above \$250,000 for individuals and above \$500,000 for married couples. Households with less money wouldn't have been taxed at all.

Supporters of Seattle's tax hailed the Court of Appeals ruling at the time, describing the decision to void the 1984 law as a positive step. They also hoped the Supreme Court would hear the case. Thursday's denial went the other way.

"That's the end of the road for this piece of legislation, which, frankly, could not have come at a worse time," Seattle City Attorney Pete Holmes said in a statement Friday about the city's wealth tax.

"The denial of the petition means the Washington state Court of Appeals decision stands ... Seattle has the authority to adopt a flat income tax, but not a progressive one."

Jason Mercier, director of the Center for Government Reform at the conservative Washington Policy Center, described the Court of Appeals decision on the 1984 ban as "bizarre."

But he hailed the Supreme Court's denial of Seattle's case Thursday as a "devastating blow to those who have been trying to circumvent voters and get the courts to allow a graduated income tax without a constitutional amendment."

Mercier said, “extra vigilance will be needed now on efforts to impose a capital gains income tax.”

Matthew Davis, an attorney for one of the people who sued to stop Seattle’s tax, said he’s shocked that the Supreme Court declined to hear the city’s case and settle the entire matter more clearly. The denial, he said, “leaves quite a mess.”

Burbank said a city could adopt a 1% tax on income with exemptions similar to those already built into the state’s property tax system for seniors and less-affluent households.

There also is “a need for a new revenue” statewide, because of the coronavirus crisis, he said. “We’re looking at losing probably \$3 billion a year in state revenue, and the answer is not to cut public services and public goods that we need now more than ever.”

During the recent Legislative session, state lawmakers didn’t advance bills that would have reenacted the 1984 ban.

*Correction: This story has been corrected. An earlier version described the Supreme Court’s decision as unanimous. It was a majority opinion.*

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